

**Final bill included several amendments introduced by the former Admiral**

October 8, 2009

Washington, D.C. – To provide our service members and their families the benefits they deserve, and to ensure our military is equipped and in a proper state of readiness to deal with 21st century challenges, Congressman Joe Sestak (PA – 07) voted for final passage of the Fiscal Year 2010 National Defense Authorization Act, which cleared the House today.

The conference report to accompanying H.R. 2647 authorizes \$550.2 billion in budget authority for the Department of Defense (DoD) and the national security programs of the Department of Energy (DoE). The bill also authorizes \$130 billion to support overseas contingency operations during fiscal year 2010.

"There are many admirable components to this bill," the Congressman said on Thursday. "However, I was disappointed that several of my amendments were not included in the final bill. For example, the mandate for treatment of autism under TRICARE I submitted and which was passed by the House in June was not included in the conference report," said the Congressman.

"What makes this omission seem almost discriminatory is the fact that provisions of the America's Affordable Health Choices Act of 2009 (H.R. 3200) would cover autism treatment. I find it very troubling indeed that the House of Representatives would deny a health benefit to service members -- who put their lives on the line for our Nation-- that we are now to provide U.S. civilians," the Congressman continued.

"I have written to Chairman Skelton expressing my disappointment on this matter, and will continue to pursue autism treatment for the families of our heroes in future legislation," the

Congressman said.

"I am additionally surprised that the conferees did not retain language establishing a National Casualty Care Research Center. This center would have centralized combat casualty and trauma care research programs nationwide. It would have undoubtedly produced beneficial findings on treating our returning wounded warriors, many of whom were maimed after being sent off to war with inadequate body armor," the Congressman continued.

"The conferees also omitted language from the House bill which would have established a neuroscience fellowship program within the Department of Defense. With the epidemics of post-traumatic stress disorder and traumatic brain injury we are witnessing among our returning veterans, additional research in the neuroscience field is vital, and this provision would have provided support to both the Defense Advanced Research Projects Agency (DARPA) and the Defense Center of Excellence for Psychological Health and Traumatic Brain Injury as they continue to find ways to treat America's heroes," said the Congressman.

"I am additionally disappointed that language directing studies to analyze alternative models for cyberspace acquisition was also omitted," the Congressman continued. "A change is needed in this era of smart bombs and "smart power" because it is not enough to procure more planes and ships. Communications and situational awareness remain key to victory, and it is our Nation's technological prowess which allows us the luxury of not having to match other emerging nation's platform for platform. We can never lose this advantage, however, and it is my conviction that this amendment would have aided the development and procurement of network-centric military technologies that will allow us to dominate cyberspace," said the Congressman.

"In balance, however, this authorization bill provides the war fighter the resources it needs as we redeploy forces from Iraq to Afghanistan. I understand that the public and policy makers alike are weary of war and wary of quagmire, but we cannot allow past mistakes -- in Afghanistan, Iraq, and elsewhere -- to deter us from the worthy, winnable, and necessary task before us," the Congressman said on Thursday.

"As long as the mission is clear, and a viable exit strategy is developed with benchmarks to measure success and failure, we should fully implement a counterinsurgency strategy that should have been executed years ago," Congressman Sestak continued.

"The annual consideration of this act provides an important opportunity, as a member of the House Armed Services Committee, to make sure our military will have the resources it needs to keep our country safe and that our troops and their families are taken care of," said Congressman Sestak. "Inaction is not an option when it comes to ensuring our service members with PTSD get the best possible treatment, nor when considering ways in which our military can become more efficient and transform to best meet future threats to our security. My amendments won support of the conferees because they address specific areas in which we know we can do better and in which our troops deserve better," the Congressman continued.

The Congressman's amendments in the final bill include the following:

### Claims of American Prisoners of War (POWs)

Congressman Sestak continued his ongoing fight to ensure that American soldiers and citizens held and tortured in Iraq during the first Gulf War are adequately compensated. He successfully submitted an amendment that expresses the sense of Congress that their claims against the Iraqi government should be resolved.

In a 2003 suit brought by 17 American POWs and 37 of their family members, Iraq, Saddam Hussein and the Iraqi Intelligence Service were found liable for \$653 million in compensatory damages and \$306 million in punitive damages. President Bush, however, vetoed the National Defense Authorization Act in 2007 to prevent the court-approved payment of compensation from Iraq for the American POWs and a group of American citizens who were held as human shields during that conflict. In 2008, the House passed The Justice for Victims of Torture and Terrorism Act, introduced by Congressman Sestak and Congressman Bruce Braley of Iowa, which would have given the Iraqi government 90 days to provide fair restitution to the victims or the waiver of immunity for the Iraqi government would be repealed. The bill served the interests of the reconstruction of Iraq by forgiving as much as two-thirds of the cost of compensatory judgments against Iraq as well as punitive damages. However, the Senate did not consider the bill.

Congressman Sestak's amendment cites the damages called for in the Justice for Victims Act as appropriate and urges resolution of these claims in the ongoing negotiations between the State Department and Government of Iraq.

### PTSD

Recognizing that it is vital to address the psychological effects of today's wars on our troops, the Congressman submitted a provision directing the Secretary of Defense and Secretary of Veterans Affairs to submit to Congress a report evaluating and comparing the effectiveness of programs designed to diagnose, treat, and prevent post-traumatic stress disorder (PTSD).

According to a 2008 RAND study, nearly 20 percent of Iraq and Afghanistan veterans screen positive for PTSD or depression. This problem has been compounded by the fact that mental health support for troops in the field is inadequate. According to Iraq and Afghanistan Veterans of America, the proportion of behavior health workers deployed to Iraq dropped from 1 per 387 service members in 2004 to 1 per 734 service members in 2007. At the same time, Army suicide rates have continued to rise each year since the beginning of the Iraq war while many of our brave men and women do not seek treatment because of the perceived stigma of receiving mental health assistance. It is incumbent upon Congress to take whatever actions possible to resolve this continuing crisis. Our heroes deserve the very best treatment possible, and this provision mandating assessment of existing programs is a critical step.

### Transparency for Western Hemisphere Institute for Security Cooperation (WHINSEC)

Both its predecessor institution, the U.S. Army School of the Americas (SOA), and the current WHINSEC provided the names of its graduates and instructors to the public, either by simple request or through the more formal process of a Freedom of Information Act (FOIA) request. Abruptly, in August 2006, the Defense Department began classifying the names, breaking with

decades of public access. The McGovern—Bishop-Sestak amendment seeks only to restore past precedent and practice, as it is good public policy to have transparency for this institution. The McGovern-Sestak-Bishop (GA) amendment requires the WHINSEC to release the names of graduates and instructors.

### Autism

Congressman Sestak continued his two year effort to provide treatment for the 13,000 autistic children of military personnel. Under current law, the military's Extended Care Health Option provides limited coverage to military families afflicted by autism. Only five percent of eligible military children receive care because of excessive delays-- as long as two year waiting periods-- and arbitrary coverage denials. An amendment submitted by the Congressman to the Defense Authorization Act which successfully passed the House in June would have worked to fix these problems by:

Mandating coverage of Autism Spectrum Disorders (ASD) under TRICARE;

Requiring that treatment of ASDs be provided only if a health care professional determines that the treatment is medically necessary;

Ensuring that beneficiaries under the age of 5 who have developmental delays and are at risk for Autism may not be denied access to treatment if treatment is medically necessary;

Requiring the Secretary of Defense to ensure that authorized providers of applied behavior analysis or other structured behavior programs are licensed or certified by a state, the Behavior Analyst Certification Board, or other accredited national certification board;

Requiring the Secretary of Defense to ensure that all employees or subcontractors of authorized

providers are also certified and meet minimum qualification standards; and

Quickly enacting the provisions 180 days after passage

Unfortunately, however, the conferees did not include this language in the final bill. In recognition of the Congressman's efforts, however, the House conferees included language in the final bill which establishes an Office of Community Support for Military Families with Special Needs within the Office of the Under Secretary of Defense for Personnel and Readiness (\$50 million authorized).

Congressman vowed to continue his efforts to expand TRICARE coverage next year, writing a letter to Chairman Skelton asking for his support and noting the solemn obligation of Congress to provide for our service members.

Last year, the Congressman introduced an amendment to the defense bill which replaced the monthly cap of \$2,500 per month for autism services under the ECHO (Extended Care Health Option) program with an annual maximum of \$36,000, a monthly increase of 20 percent. In addition, the amendment led to the initiation a demonstration project to identify needs of military families and a provision for a report from the Secretary of Defense on the feasibility of establishing one or more autism support centers.

Other Provisions

Year of the Military Family

Provides a 3.4 percent military pay raise

Expands TRICARE health coverage for reserve component members and their families for 180 days prior to mobilization

Prohibits fee increases on TRICARE inpatient care for one year

Provides \$2.2 billion for family housing programs

Adds \$276 million to support the Housing Assistance Program that helps service members forced to sell their homes at a significant loss

Provides travel and transportation for three designated persons, including non-family members, to visit hospitalized service members

Enables seriously injured service members to use a non-medical attendant for help with daily living or during travel for medical treatment

Provides \$30 million for Impact Aid funding, with an additional \$14 million for BRAC-affected areas and an additional \$5 million for military children with severe disabilities

Establishes an internship pilot program within federal agencies for military spouses Directs DOD to establish an undergraduate nurse training program to help alleviate the shortage of military nurses

Readiness

Increases the size of the military by 30,000 Army troops, 8,100 Marines, 14,650 Air Force personnel, and 2,477 Navy sailors in Fiscal Year 2010, as requested by the President

Authorizes an additional 30,000 Army troops in Fiscal Years 2011 and 2012

Provides \$11 billion for Army reset and \$2 billion for Marine Corps reset

Provides \$6.9 billion to address equipment shortfalls in the National Guard and Reserves

Provides \$255.3 million to refill and maintain prepositioned stocks to help prepare for any future contingencies

Provides \$4.7 billion for training opportunities for the Army

Adds \$350 million for Army trainee barracks construction and \$200 million to support National Guard and Reserve military construction projects

Adds \$70 million for the Navy's top unfunded requirement, aviation depot maintenance

Afghanistan and Pakistan

Bans permanent bases in Afghanistan

Requires reports to assess progress toward security and stability in Afghanistan and in Pakistan



Provides funds to train and equip the Afghan National Security Forces (ANSF)

Authorizes up to \$50 million in Commanders' Emergency Response Program (CERP) funds to support the Afghanistan National Solidarity Program

Authorizes use of CERP funds to support reintegration into Afghan society of those who have renounced violence against the Government of Afghanistan

Authorizes the Pakistan Counterinsurgency Fund to improve the capabilities of Pakistan's security forces, including Pakistan's military and Frontier Corps

Requires a system to register and track all U.S. defense articles provided to Afghanistan and Pakistan

Directs GAO to provide separate reports assessing the strategic plans for Iraq and Afghanistan

Iraq

Bans permanent bases in Iraq and prohibits U.S. control of Iraqi oil revenues

Requires a report on the responsible redeployment of U.S. Forces from Iraq

Provides authority to transfer equipment to bolster the Iraqi Security Forces

Aircraft

Authorizes the full budget request for 30 F-35 Joint Strike Fighter aircraft

Authorizes continued development and procurement of the F136 Joint Strike Fighter competitive engine

Authorizes a multi-year contract procurement authority for F/A-18E/F and/or EA-18G aircraft to address shortfalls in the Navy's strike fighter aircraft inventory

Does not authorize advance procurement or procurement of F-22 aircraft

#### Ground Vehicles

Provides \$6.7 billion for Mine Resistant Ambush Protected (MRAP) vehicles, \$1.2 billion above the President's request, which fully funds the new MRAP All-Terrain variant requirement for Afghanistan

#### Ships

Provides authority to restructure the Littoral Combat Ship (LCS) program and take measures to reduce costs of procurement

Demonstrates commitment to increasing the number of Navy ships by authorizing the eleventh LPD-17 and funding to complete the tenth LPD-17, one VA-class submarine with advance procurement to allow for the construction of two submarines in fiscal year 2011, one DDG 51 class destroyer (which restarts the procurement of that class), two T-AKE class ships, one Joint High Speed Vessel (JHSV), funding to complete the third and final DDG-1000, continued incremental funding of the first of the Ford class aircraft carriers, and by providing research and development funding for future classes of submarines, surface combatants, and amphibious

warfare ships

Defense Acquisition Reform

Supports the plan to increase the size of the civilian acquisition workforce

Enhances expedited hiring authority to attract quality candidates for defense acquisition workforce positions

Reduces DOD's reliance on contractors for critical acquisition functions

Eliminates waste, fraud, and abuse through increased contractor oversight

National Security Personnel System (NSPS)

Repeals NSPS and transitions employees back to the General Schedule (GS) by January 1, 2012

Provides DOD with flexibilities to reform the DOD hiring process and establish a performance management system

Federal Employees

Includes important changes to the federal retirement system that will enhance the retirement system's efficiency and effectiveness as a recruiting and management tool at a time when the government needs to be attracting the best and the brightest to the federal workforce

Allows employees covered by the Federal Employees Retirement System (FERS) to receive credit for unused sick leave toward their retirement annuity, as is currently the case for employees covered by the older Civil Service Retirement System

Reduces incentive for employees to use excess sick leave as they approach retirement. OPM estimates the current "use it or lose it" system results in \$68 million in lost productivity each year.

Ensures retirement equity for Federal workers in Hawaii, Alaska, and the U.S. Territories by providing these employees with locality pay. These workers currently receive a cost of living allowance, which does not count toward their retirement, as locality pay does.

Ensures that provisions are PAYGO neutral, resulting in approximately \$258 million in deficit reduction over 10 years

### Combating Piracy

Requires vessels carrying DOD cargo in high piracy risk areas to be equipped with appropriate non-lethal defense measures

Requires a report on efforts to ease restrictions on arming ships for self-defense and on efforts to establish common standards for training and professional qualifications of armed security teams

### Cybersecurity

Strengthens DOD's ability to face cyber threats and vulnerabilities by improving research and promoting military and civilian cyber workforce development

Supports budget request for DARPA's National Cyber Range

## Detainees

Prohibits the release of Guantanamo Bay detainees into the United States, its territories, and possessions and restricts detainee transfers to the same until 45 days after the President has submitted a plan to Congress certifying that the detainees will pose little to no risk to the United States if transferred

Prohibits interrogation of detainees by contractors

Prohibits any non- Department of Justice official from reading Miranda rights to detainees

Requires the Secretary of Defense to develop guidelines mandating videotaping or other electronic recording of non-battlefield detainee interrogations

Requires DOD to give the International Committee of the Red Cross (ICRC) prompt access to detainees held at the Bagram Theater Internment Facility in Afghanistan

## Military Commissions

Revises the Military Commissions Act to clarify rules and improve trial procedures to make military commissions fair and effective and significantly reduce the likelihood of convictions from being overturned on technicalities by:

Prohibiting the use of statements alleged to have been secured through cruel, inhuman, or

degrading treatment;

Providing the accused with greater ability to select own counsel;

Making hearsay evidence harder to use in court;

Improving the procedures for the handling of classified information; and

Permitting military commissions to continue existing cases for 90 days or until revisions have been made to supporting court manuals and handbooks

## Missile Defense

Fully authorizes the Administration's request of \$9.3 billion for missile defense programs

Provides the resources necessary to meet the most pressing ballistic missile threats to the United States, our deployed forces, and our friends and allies

## Non-Proliferation

Provides \$2.2 billion for DOE's non-proliferation programs, an increase of \$398 million

Provides \$424 million for Cooperative Threat Reduction (CTR) initiatives, an increase of \$20 million

## Nuclear Weapons

Strengthens the Stockpile Stewardship Program to ensure the nuclear weapons stockpile is safe, secure, and reliable without the use of underground testing

## Hate Crimes

Provides technical and financial support to local law enforcement and prosecutors so that they can more aggressively try violent crimes which are motivated by a victim's race, color, religion, national origin, gender, sexual orientation, gender identity, or disability and expands federal jurisdiction to cover such crimes.

Creates a new federal crime to penalize attacks against U.S. service members or their property on account of their service to country.

Includes stronger protections for freedom of speech and association, including religious speech and association, than the House passed version of this legislation. The provision contains rule of construction sections that protect First Amendment religious speech or expressive conduct from prosecution under the Act or admissibility at trial. Consequently, religious leaders will not have to change the expression of their beliefs or how they service their congregations, as a result of the enactment of Hate Crimes legislation.

The House has passed this Hate Crimes legislation with strong bipartisan support in both the 110th and 111th Congresses.